

1 **RODNEY J. JACOB, ESQ.**
2 **DANIEL M. BENJAMIN, ESQ.**
3 **CALVO & CLARK, LLP**
Attorneys at Law
655 South Marine Corps Drive, Suite 202
Tamuning, Guam 96913
Telephone: (671) 646-9355
Facsimile: (671) 646-9403

5 Attorneys for Defendant FUJITSU
6 MICROELECTRONICS AMERICA, INC.

FILED
DISTRICT COURT OF GUAM
NOV 20 2006
MARY L.M. MORAN
CLERK OF COURT

7
8 IN THE UNITED STATES DISTRICT COURT

9 DISTRICT OF GUAM

10 NANYA TECHNOLOGY CORP.,

11 Plaintiff,

12 -v-

13 FUJITSU LIMITED, FUJITSU
14 MICROELECTRONICS AMERICA, INC.,

15 Defendants.

CIVIL CASE NO. 06-CV-00025

**CERTIFICATE OF DANIEL M.
BENJAMIN IN SUPPORT OF
DEFENDANT FMA'S EX PARTE
APPLICATION UNDER L.R. 7.1(j)&(k)
TO SHORTEN TIME ON MOTION TO
EXTEND TIME**

1 I, Daniel M. Benjamin, declare and certify pursuant to L.R. 17.1(k):

2 1. I am an attorney at Calvo & Clark, LLP, local counsel of record for defendant the
3 Fujitsu Microelectronics America, Inc. ("FMA") in this matter. I make this declaration on
4 personal knowledge, and if called as a witness, I could and would testify thereto.

5 2. FMA makes its application *ex parte* for an order shortening time on its
6 concurrently filed Motion to Extend Time in the interest of judicial economy and to protect the
7 parties from duplicative or unnecessary scheduling practice and discovery.

8 3. At present, the proposed scheduling order in this matter is due on November 27,
9 2006 and the scheduling conference is set for December 12, 2006. However, FMA's co-
10 defendant, Fujitsu Limited, has yet to be served in this action, as explained in its concurrently
11 filed Objections To The Magistrate's Order Granting Motion For Alternative Service Of Process
12 On Fujitsu. And, an amended complaint, adding new plaintiff and new claims, was filed just days
13 ago on November 17, 2006.

14 4. Under these circumstances, with one party yet to be served, a new party being
15 interjected, and new claims being brought, FMA is asking that the Court reschedule the
16 scheduling conference and time for submission of proposed scheduling orders until the
17 outstanding issues can be sorted out, all parties are properly before the Court, and all parties have
18 a fair opportunity to consider the new claims and the scheduling modifications that these may
19 require. In the alternative, FMA is moving to stay discovery based upon the same facts. FMA is
20 moving on shortened time because the relief requested cannot be obtained prior to the due date
21 for the proposed scheduling order absent an order shortening time.

1 5. In compliance with Local Rules 7.1(j)&(k), I note that Plaintiffs in this action are
2 represented by two local attorneys and several attorneys who are admitted *pro hac vice*. Their
3 addresses are as follows:

4 John S. Unpingco, Esq.
5 Law Offices of John S. Unpingco
6 & Associates, LLC
7 777 Rte. 4, Suite 12B
8 Sinajana, Guam 96910
9 Tel: 671-475-8545
10 Fax: 671-475-8550

11 Joseph C. Razzano
12 Teker Torres and Teker, P.C.
13 Suite 2A, 130 Aspinall Avenue
14 Hagåtña, Guam 96910-5018
15 Tel: 671-477-9891/4
16 Fax: 671-472-6201

17 Michael W. Shore
18 Alfonso G. Chan
19 Martin Pascual
20 Shore Chan Bragalone LLP
21 Suite 4450
22 325 North Saint Paul Street
23 Dallas, TX 75201
24 Tel: 214-593-9110
25 Fax: 214-593-9111

26 Kenneth E. Shore
 Vance P. Freeman
 Shore West Freeman, P.C.
 Suite 200
 2020 Billowens Parkway
 Longview, TX 75604
 Tel: 903-295-7200
 Fax: 903-295-7201

27 6. On November 17, 2006, I informed Plaintiffs' local counsel of FMA's intent to
28 bring this application and the Motion for Leave unless a stipulation could be reached. A true and
29

1 correct copy of my letter dated November 17, 2006 to Joseph Razzano, Esq. and John Unpingco,
2 Esq. is attached hereto as Exhibit 1.

3 7. I contacted local counsel (Mr. Razanno) today at approximately 9:14 a.m. He
4 responded that he would not agree to move the scheduling dates and would oppose FMA's
5 motion.

6 8. Immediately after its filing, I will cause this ex parte application to shorten time to
7 be served on Plaintiffs' local counsel with the accompanying papers and Motion to Extend Time.

8 I declare under penalty of perjury pursuant to the laws of the United States and of the
9 Territory of Guam that the foregoing declaration is true and correct.

10 Executed this 20th day of November, 2006 in Tamuning, Guam.

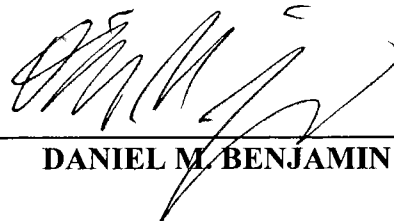
11
12 
13 _____
14 DANIEL M. BENJAMIN
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23

EXHIBIT 1

CALVO & CLARK LLP

655 SOUTH MARINE CORPS DRIVE, SUITE 202
TAMUNING, GUAM 96913
P: 671.646.9355 F: 671.646.9403
WWW.CALVOCLARK.COM

writer's direct e-mail:
dbenjamin@calvoclarck.com

November 17, 2006

VIA FACSIMILE NO. 475-8550

John S. Unpingco, Esq.
LAW OFFICES OF JOHN S. UNPINGCO
& ASSOCIATES, LLC
777 Rte. 4, Suite 12B
Sinajana, Guam 96910

VIA FACSIMILE NO. 472-2601

Joseph C. Razzano, Esq.
TEKER, TORRES & TEKER, P.C.
130 Aspinall Avenue, Suite 2A
Hagåtña, Guam 96910

RE: NANYA TECHNOLOGY CORP. V. FUJITSU LIMITED, FUJITSU
MICROELECTRONICS AMERICA, INC.
U.S. DISTRICT COURT OF GUAM, CIVIL CASE NO. 06-00025

Dear Counsel:

This office represents Fujitsu Microelectronics America, Inc. ("FMA") as local counsel in this matter. Upon reviewing the file, it appears that the scheduling order and scheduling conference are upcoming. However, it is our understanding that service in relation to FMA's co-defendant, Fujitsu Limited, remains in dispute. We also understand there will be jurisdictional challenges made by the defendants.

We therefore intend to ask the court: (1) to continue the dates for the proposed scheduling order and the scheduling conference for 60 days while these matters are resolved; or (2) to stay discovery and initial disclosures until the preliminary issues identified above (including any service and jurisdictional issues) can be addressed. Please let us know by Monday morning if you are agreeable.

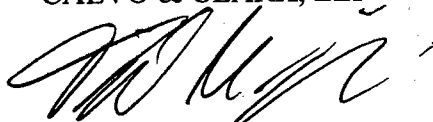
We would like to begin this case in a spirit of mutual cooperation with regard to procedural matters so as to avoid unnecessarily burdening the Court. Thus, we hope that you are agreeable to our suggested course. However, in the event that you will not agree, please take this letter as our notice of our intent to file on Monday afternoon a motion seeking, on shortened

John S. Unpingco, Esq.
Joseph C. Razzano, Esq.
November 17, 2006
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time, either to reset the dates for the proposed scheduling order and scheduling conference, or, alternatively, to stay discovery and initial disclosures pending resolution of the above-identified issues.

Very truly yours,

CALVO & CLARK, LLP



Daniel M. Benjamin

DMB:ast